



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Ser. No. 09/735193
Inventor; Frank Abdulloviski
Filing date: 12/11/00
Examiner: Weinstein, S
Art unit: 1761

Date; 8/24/04

Amendment in response to New Grounds of Rejection

Dear Examiner Weinstein:

Remarks:

In response to the office action of 12/8; we would ask that the examiner supply an affidavit or some sort of sworn paper attesting to the state of the art re: the Harry's Premium Snack package, and what teachings were in such reference. See reference to "former employee of [Harry's Snack co.] that the Harry's Premium Snacks package was..." (page 2, office action of 12/8/04).

Also what expert is supplying such information? May we have a statement from said expert and some adequate place of abode? One would expect that the expert's name, address and phone number be made freely available to the applicant in as much as it is his property right that is being put in issue in this government proceeding and he reserves his right to call this man as expert witness or to challenge his factual conclusions.

Regarding the statement per se, such a simple declaration by the examiner that he has spoken with such and such an expert is not really the kind of article that can carry any great weight if such case should become an important public document that attests to the state of the skill in the art at least in that art that is relevant to this invention. The expert's name is kept secret for one thing, and there really is no writing upon which an informed understanding of the prior art has been attested to.

Such a "file wrapper" is designed to create a paper record as to the reasons for the acceptance or rejection of an application for letters patent. Such a paper record would normally be filled with publications, periodical references, and perhaps Statement of Facts or Affidavits by various experts in the field. Simply having the examiner aver that he believes: "the Harry's reference was: "an outer bag containing both a separate inner bag of chips and a separate inner cup of salsa separate from the inner bag" is entirely without the proper sort of documentation that is necessary for a case of involving official records of the US Patent Office.

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